

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

301 State House
(317) 232-9855

FISCAL IMPACT STATEMENT

LS 6672

BILL NUMBER: HB 1222

DATE PREPARED: Apr 10, 2001

BILL AMENDED: Apr 9, 2001

SUBJECT: Telephone Solicitations.

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FUNDS AFFECTED: X GENERAL
X DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: (Amended) This bill requires the Consumer Protection Division of the Office of the Attorney General to publish a listing of telephone numbers of persons who do not wish to be solicited by telephone. The bill prohibits a telephone solicitor from calling a number that appears in the quarterly listing published by the Division. The bill requires a telephone solicitor who makes an unsolicited telephone call to state the solicitor's name and business immediately upon telephone contact with a consumer. The bill establishes other requirements that a telephone solicitor must meet before a contract made under a telephone sales call is valid. The bill also establishes civil remedies for violations. It also requires the Consumer Protection Division of the Office of the Attorney General to notify Indiana residents of the rights and duties created by these provisions.

Effective Date: July 1, 2001.

Explanation of State Expenditures: (Revised) This bill will require the Consumer Protection Division of the Office of the Attorney General to maintain a listing of telephone numbers of individuals who do not wish to be solicited by telephone. The bill requires a quarterly listing of the phone numbers of those individuals to be made available to certain organizations and businesses that make telemarketing calls. The bill requires the Division to notify Indiana residents of their rights under the bill and also requires the Division to investigate complaints concerning violations of the bill's provisions.

Exemptions are expressly made in the bill for sales calls on behalf of newspapers, insurance agents, real estate agents, and certain solicitations by charitable organizations. Calls made in response to an information request or in connection with an existing debt or contract are also exempted.

It is difficult to determine the exact cost of implementing this proposal. Kentucky's Office of the Attorney General has maintained a similar, yet less extensive, telephone solicitation no-call list. As of September 2000, over 55,000 citizens had been placed on the list. The annual cost of maintaining Kentucky's list is

approximately \$200,000. This estimate includes the costs associated with printing, additional staffing, advertising, telephone line installation and monthly phone bills, supplies, and postage. Currently, Kentucky's no-call list is maintained by one member of the Kentucky Attorney General's Office staff.

Computer Business Services Inc., a private firm which manages do-not-call programs for the states of Georgia and Oregon, estimates that the cost of listing a single phone number ranges between \$4 and \$6 annually.

The provisions requiring the Division to maintain a quarterly listing, notify Indiana residents of their rights and duties, and investigate complaints, may increase the Division's expenses. The total cost of the program will depend on the number of Indiana residents who will want to add their phone numbers to the do-not-call list. The bill allows the Attorney General's office to contract with the services related to the updating, maintenance, and dissemination of the listing. A portion of the program's cost may be offset from fees collected and deposited into the Consumer Protection Division Telephone Solicitation Fund (see Explanation of State Revenues).

If money collected from the Telephone Solicitation Fund does not cover the bill's expenses, the remaining funds and resources required could be supplied through a variety of sources, including the following: (1) Existing staff and resources not currently being used to capacity; (2) Existing staff and resources currently being used in another program; (3) Authorized, but vacant, staff positions, including those positions that would need to be reclassified; (4) Funds that, otherwise, would be reverted; or (5) New appropriations. The Office of the Attorney General reverted \$499,566 from its operating account at the end of FY 2000. Ultimately, the source of funds and resources required to satisfy the requirements of this bill will depend upon legislative and administrative actions.

Explanation of State Revenues: (Revised) *Telephone Solicitor Revenue*: The bill requires that the Division provide the listing, for a fee, to telephone solicitors upon request. The fee charged by the Division for the list is limited to the amount necessary to reimburse the Division for the cost of providing the listing to telephone solicitors. The fees collected from telephone solicitors are to be deposited in the Consumer Protection Division Telephone Solicitation Fund, which is established by this bill for the purpose of administering the program. Money in the fund does not revert to the State General Fund at the end of a state fiscal year unless the amount in the fund exceeds \$200,000 at the end of a particular fiscal year.

Penalty Provisions: A telephone solicitor who fails to comply with the provisions of this bill commits a deceptive act that is actionable by the Office of the Attorney General. In an action against an offending telemarketer, the Attorney General may: issue an injunction to enjoin future violations, collect a civil penalty of up to \$10,000 for an initial violation (\$25,000 for subsequent violations), collect all money obtained through the violation, and obtain funds necessary to pay for the investigation and attorney costs associated with the action from the defendant.

Explanation of Local Expenditures:

Explanation of Local Revenues:

State Agencies Affected: Consumer Protection Division of the Office of the Attorney General; Legislative Services Agency.

Local Agencies Affected: Marion County Circuit or Superior Court.

Information Sources: State of Indiana Attorney General's Office; Consumer Protection Division of the Office of the Attorney General, State of Kentucky, (502) 696-5398; Bill Bennet, Executive Director, Computer Business Services, Inc., (912) 924-4408.